

REMARKS

In the Office Action dated November 28, 2007 (hereinafter, "Office Action"), claims 34-35, 39-42, 46-49 and 53-56 stand rejected under 35 U.S.C. § 102. Claims 36-37, 43, 45, 50, 52 and 57-58 stand rejected under 35 U.S.C. § 103. Claims 34, 39, 46 and 53 have been amended. Claims 36, 43, 50, and 57 have been canceled.

Applicant respectfully responds to the Office Action.

I. Claims 34-35, 39-42, 46-49 and 53-56 Rejected Under 35 U.S.C. § 102

Claims 34-35, 39-42, 46-49 and 53-56 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Benyassine's "ITU-T Recommendation G.729 Annex B: A Silence Compression Scheme for Use with G.729 Optimized for V.70 Digital Simultaneous Voice and Data Applications" (hereinafter, "Benyassine"). Applicant respectfully traverses.

Claim 34 has been amended to recite "a state vector generator, wherein the state vector generator is incremented for each generated active or transition vocoder frame." Support for this amendment may be found in Applicants' specification, for example, page 12, lines 6-9; page 13, lines 19-20 and canceled claims 36, 43, 50, and 57. Benyassine does not teach or suggest this subject matter. In fact, the Office Action admits that "Benyassine does not explicitly disclose generating a state vector, [and] incrementing the state vector for each active or transition vocoder frame." (Office Action, page 9.)

In view of the foregoing, Applicant respectfully submits that claim 34 is patentably distinct from Benyassine. Accordingly, Applicant respectfully requests that the rejection of claim 34 be withdrawn.

Claim 35 depends directly from claim 34. Accordingly, Applicant respectfully requests that the rejection of claim 35 be withdrawn.

Claims 39, 46 and 53 have been amended with subject matter similar to the subject matter amended to claim 34. As such, Applicant submits that claims 39, 46 and 53 are patentably distinct from Benyassine for at least the same reasons as those presented above in connection with claim 34. Accordingly, Applicant respectfully requests that the rejection of claims 39, 46 and 53 be withdrawn.

Claims 40-42 depend either directly or indirectly from claim 39. Claims 47-49 depend either directly or indirectly from claim 46. Claims 54-56 depend either directly or indirectly from claim 53. Accordingly, Applicant respectfully requests that the rejection of claims 40-42, 47-49 and 54-56 be withdrawn.

II. Claims 36-37, 43, 45, 50, 52 and 57-58 Rejected Under 35 U.S.C. § 103

Claims 36-37, 43, 45, 50, 52 and 57-58 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Benyassine in view of U.S. Patent No. 6,447,150 to Maggenti et al. (hereinafter, "Maggenti"). Claims 36, 43, 50, and 57 have been canceled. Applicant respectfully traverses.

35 U.S.C. § 103(c) states that:

Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, *owned by the same person* or subject to an obligation of assignment to the same person.

Under 35 U.S.C. § 103(c) and M.P.E.P. § 706.02(l)(1), the Maggenti reference is disqualified as prior art for purposes of 35 U.S.C. § 103 against the claimed invention because this reference only qualifies as prior art under 35 U.S.C. § 102 (e), (f) and/or (g). In addition, the Maggenti reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person or organization. More specifically, the Maggenti reference and the present application were, at the time the invention was made, both owned by Qualcomm Incorporated. Accordingly, Applicant respectfully requests that the rejection of claims 37, 45, 52 and 58 be withdrawn.

CONCLUSION

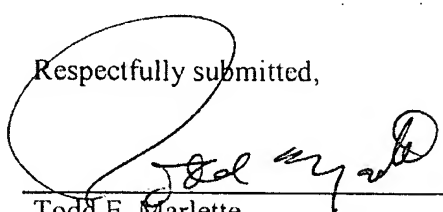
In view of the foregoing, Applicant submits that the application is in condition for allowance. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

The Commissioner is hereby authorized to charge any fees which may be due or credit any overpayment to deposit account no. 17-0026.

Respectfully submitted,

Dated: March 25, 2008

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